



KINSHASA DECLARATION

**On the Rights to Reparation and Co-creation of Survivors and
Victims of Conflict-Related Sexual and Gender-Based Violence**

November 2022

During a Survivors' Hearing on Reparations from 22-24 November 2021 held in Kinshasa, Democratic Republic of Congo, survivors and victims of conflict-related sexual and gender-based violence issued the Kinshasa Principles which have been developed into this Declaration.

Preamble

We, survivors and victims of conflict-related sexual and gender-based violence from twelve (12) African countries (Democratic Republic of Congo, Central African Republic, Chad, Guinea, Kenya, Liberia, Mali, Nigeria, Rwanda, Sierra Leone, South Sudan, and Uganda), following discussions and advocacy in our home countries, convened in Kinshasa in solidarity to speak out, express our vision for all survivors and victims across the world, in all their diversities, and affirm our rights to reparation and co-creation¹ through meaningful participation in reparation processes – proclaiming our dignity, confronting stigma and refusing to accept the structures and norms that cause and sustain violations against us;

Deeply concerned about the ongoing sexual and gender-based violence in conflict situations and its grave consequences;

Recalling the provisions in international and regional instruments providing for a right to a remedy and reparation, including equal and effective access to justice and guarantees of non-repetition, for victims of gross human rights violations,² grave violations of international humanitarian law³ and violations of international criminal law⁴ as well as States' obligations to investigate, prosecute and punish those responsible, and provide reparation to victims of sexual and gender-based violence in conflict situations;

Recognising that existing instruments and other frameworks upon which this Declaration builds upon⁵ have gaps, that important international and domestic jurisprudence has developed, and that State practice and responsibility has evolved regarding survivors' and victims' rights to reparation and participation in reparation processes since the Nairobi Declaration of 2007;

Recalling reparative justice as effective and adequate financial as well as non-financial redress for violations or losses suffered, in particular that reparations are meant to acknowledge the harms suffered, recognise the dignity and agency of survivors and victims and restore hope for the future, acknowledge them as rights-holders and full and equal members of society, as well as enable them to meaningfully contribute to the transformation of patriarchal and discriminatory norms, identities, relationships and structures;

Expressing concern about the serious lack of implementation of the rights to reparation, meaningful participation and justice for survivors and victims in most countries;

Recalling that survivors and victims' right to participate requires their meaningful participation in every stage of the reparation process, including the mapping, design, implementation, monitoring and evaluation, and requires more than mere consultations; co-creation through meaningful participation of survivors and victims requires them to be treated as equal partners by recognising and nurturing their agency as well as their ongoing engagement as full and active participants at every stage of the process and in every decision that may affect them;

Acknowledging the importance of including survivors and victims in identifying and addressing their safety and security concerns;

Appreciating the existing ecosystem of survivors/victims, civil society, national and international organisations trying to address the considerable implementation gaps;

Recognising the critical role of civil society in driving reparation efforts, and stressing the importance of providing victims' association and survivors' networks with adequate long-term funding and strengthening their capacity to enable meaningful participation of survivors and victims in reparation processes;

Underscoring our resilience, leadership, solidarity and creativity in claiming our rights to reparation and co-creation through meaningful participation, and shaping survivor-centred approaches to reparations;

We declare that reparations are vital in acknowledging our humanity, status as rights-holders as well as full and equal citizens of the state.

We, survivors and victims of conflict-related sexual and gender-based violence, call upon States and the international community to take action and we declare as follows

1. Survivors and victims of conflict-related sexual and gender-based violence, in all their diversities, are entitled to survivor/victim-centred, transformative and gender responsive reparations, justice, peace and guarantees of non-repetition. Male survivors/victims, children born of war⁶ and children born to survivors/victims⁷ should be duly included in reparation processes and their specific needs addressed appropriately.
2. A broad definition of conflict-related sexual and gender-based violence and victimhood is required, to emphasise that:
 - a. Conflict-related sexual and gender-based violence includes not only rape but also enslavement, sexual slavery and slave trading, forced sterilisation and forced abortion, forced marriage, trafficking for sexual exploitation, imposed motherhood, forced pregnancy, sexual mutilations, and any other serious form of harm or exploitation of sexual and reproductive capabilities;
 - b. Victims can be any person, regardless of age, gender identity or sexual orientation having suffered conflict-related sexual and gender-based violence as well as their families and communities directly or indirectly experiencing the harmful consequences thereof⁸.
3. Children born of war or born to survivors/victims, including those who are now in adulthood, are entitled to victim-centred, transformative and gender responsive reparations in their own right. Their fundamental and human rights, in particular their rights to identity, nationality and citizenship, should be recognised and respected by States and other parties.
4. Traditional, religious and community leaders need to be aware of their ability and capacity to influence and strengthen respect for gender equality, human rights, and existing national laws against conflict-related sexual and gender-based violence, so that they can be engaged as agents of change and contribute to prevention and adequate response. In particular, States should put in place national awareness and protection programmes that involve traditional, religious and community leaders to transform discriminatory social and cultural norms, affirm survivors and victims' dignity, at both individual and communal levels, and counter stigma. Programmes involving traditional, religious and community leaders should also be put in place in order to address the specific stigma and discrimination against children born of war or born to survivors/victims. All such programmes must be co-created with relevant survivor and victim groups, including youth, to ensure that they do not expose them to further harm or revictimisation.
5. Reparation programmes should acknowledge and specifically address transgenerational harm caused by conflict-related sexual and gender-based violence, in particular through memorialisation and other forms of public acknowledgment.

- 6.** Despite the strong normative framework guaranteeing survivors' and victims' rights to reparations and participation in reparations processes and efforts to establish domestic reparations programmes, the lack of adequate implementation of such norms and rights is the norm and has devastating impacts. Governments frequently fail to exert the political will and avail the financial resources needed for survivors' and victims' access to reparations and meaningful participation in every stage of the reparation process. This reinforces injustice, trauma and exacerbates risks. This further leads to lack of ownership, further victimisation, continued and compounded violence, multiple vulnerabilities and complex cycles of violence.
- 7.** Reparations are urgent given that conflict-related sexual and gender-based violence often imposes an immediate threat to the person's survival or basic health and can cause life-long health complications (both psychological and physical), disabilities and socio-economic harms which are compounded if not addressed without delay. Urgent interim reparations should be provided immediately pending comprehensive reparations. Such reparations measures should be co-created with survivors and should include medical and psychological care, compensation as needed and livelihood support.
- 8.** Comprehensive reparations should be co-created with survivors on a long-term basis and be holistic, sustainable, durable and adequately resourced. They can include medical and psycho-social care, adequate compensation, livelihood support, land, housing and education, in addition to apologies, memorialisation, commemoration and other forms of public acknowledgement.
- 9.** We, survivors and victims of conflict-related sexual and gender-based violence, call in particular for the declaration and observance of an Africa-wide commemoration for all survivors and victims of conflict-related sexual and gender-based violence including those who lost their lives in various conflicts across the continent.
- 10.** Structural inequalities, discriminatory socio-cultural practices including limited economic opportunities, denial of right to inheritance, discriminatory and stigmatising taboos, detrimental beliefs about gender and sexuality and lack of identification documents, especially for survivors/victims' children, can hinder access to reparations, including to health and educational measures. To be accessible and meaningful, reparation programmes should take this into account and address the related obstacles through, for example, stakeholder engagement, apology from duty-bearers, awareness raising on the impacts of war and access to voluntary alternative dispute resolutions, among others.
- 11.** Reparations initiatives may help to transform the unequal structures and norms at the root of the violations experienced by survivors/victims and help prevent further discrimination and stigmatisation.
- 12.** Survivors and victims should be involved in their capacity as co-creators and actively participate in the design, implementation, monitoring and evaluation of all the reparation programmes, institutions, policies, strategies and practices that will impact their lives and livelihood. Survivor/victim-centred, transformative and gender responsive approaches require that survivors/victims co-create reparations together with trusted networks, civil society organisations, state institutions and international bodies. The strengthening of survivors' networks should be a priority in ensuring meaningful participation as well as advocacy for effective reparations.
- 13.** Survivors and victims stress that humanitarian assistance received by victims or survivors does not replace their right to reparation and should not be regarded as such.
- 14.** We, survivors and victims of conflict-related sexual and gender-based violence, demand that gender responsive perspectives are adopted in examining transformative reparations that address, among others, the gendered harms to individual survivors and victims and the structural dimension and harmful stereotypes that facilitate such violence.

KINSHASA DECLARATION

1. **Co-creation** describes the collaborative reparation processes, measures and strategies that bring together survivors and victims as equal partners alongside other relevant stakeholders. Co-creation is the result of survivors' and victims' meaningful participation and adoption of a truly survivor/victim-centred approach, and goes beyond participation through consultations or the provision of mere information to survivors/victims.
2. For instance: article 8 of the Universal Declaration of Human Rights; article 2 of the International Covenant on Civil and Political Rights; article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; article 39 of the Convention on the Rights of the Child; article 7 of the African Charter on Human and Peoples' Rights; article 25 of the American Convention on Human Rights; article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms; article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; articles VIII and XI of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in African.
3. For instance: article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV) and article 91 of the Additional Protocol to the Geneva Conventions of 12 August 1949.
4. For instance: articles 68 and 75 of the Rome Statute of the International Criminal Court.
5. For instance: UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law (2005); the Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation (2007); article 4 of the Declaration on the Elimination of Violence Against Women; CEDAW General recommendation No. 30 on conflict prevention, conflict and post conflict situations (2013); the Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence (2014); UN Security Council Resolution on Women Peace and Security, in particular 1325 (2000) and 2467 (2019); African Union Transitional Justice Policy 2019.
6. **Children born of war** refers to children conceived and born as a result of sexual violence in a context of war. These children experience extreme challenges, including in their homes, and their specific needs must be prioritised.
7. **Children born to survivors/victims** refers to children conceived and born as a result of consensual relationships from mothers or fathers who have experienced conflict-related sexual and gender-based violence before or after their birth. These children experience challenges as a result of who their mother and/or father is, but generally to a lesser extent than children born of war.
8. **Direct/Primary** victims are persons who personally suffered conflict-related sexual and gender-based violence and the children born from such violence. **Indirect/Secondary** victims are persons who suffer pain, stigmatisation, economic, psychological, social or other negative impacts because of what happened to the direct victim and can include children, parents and guardians, siblings, family or household members of direct victims.

We were supported by the following civil society organisations that have walked with us the journey of change:



We also wish to acknowledge the support of Christine Alai, transitional justice expert; Reem Alsalem, UN Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences; Betty Kaari Murungi, advocate of the High Court of Kenya; Ruth Rubio Marin, Director of the UNESCO Chair in Human Rights and Interculturalism of the International University of Andalucia; Patricia Viseur Sellers, Visiting Fellow at the University of Oxford and Special Advisor to the International Criminal Court on Slavery Crimes; Yasmin Sooka, transitional justice expert and Chair of the Commission on Human Rights in South Sudan.

With the financial support of:



